

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19075
[Redacted])	
Taxpayer.)	DECISION
)	
_____)	

On August 19, 2005, the staff of the Managed Audit Program of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to the [Redacted] (taxpayer), proposing use tax, penalty, and interest for the period of September 1, 2001, through October 31, 2002, in the total amount of \$3,533.

On August 26, 2005, the taxpayer filed a timely appeal and petition for redetermination.

On March 30, 2006, the Tax Policy Section of the Commission sent a letter to the taxpayer explaining its rights to appeal and asking for a list of times when the taxpayer was available for a hearing. After receiving no response to this letter, the Commission sent a second letter on May 19, 2006. The taxpayer again did not respond.

At issue is use tax imposed on the purchase of a front end loader, a baler, a tiller, and other miscellaneous equipment. Although the taxpayer intended to construct [Redacted] on his property, he gave the seller an exemption claim form (Form ST-101), claiming the equipment was to be used by a business devoted to farming. Such use is exempt in Idaho under the production exemption (Idaho Code § 63-3622D).

The taxpayer stated that its partners in [Redacted] project backed out, so it used the equipment to cut and bale hay. The taxpayer's president, Mr. [Redacted], provided invoices that were apparently created on a computer showing four separate sales of hay to a Mr. [Redacted] of

[Redacted]. The sales were dated November 14, 2001; January 23, 2002; October 18, 2002, and January 3, 2003.

The taxpayer has never reported any farm income. Idaho Code § 63-3622D only applies to a business devoted to farming, mining, processing or manufacturing. If the taxpayer did use the equipment to cut and bale hay, it does not appear that the taxpayer ever operated the farm as a business. A Notice of Deficiency issued by the Commission is presumed to be correct and the burden is on the taxpayer to prove he is not responsible for the taxes claimed due. *Riverside Development Company v. Vandenberg*, 137 Idaho 382, 48 P.3d 1271 (2002). The taxpayer in this case has not met that burden.

WHEREFORE, the Notice of Deficiency Determination dated August 19, 2005, is APPROVED, AFFIRMED and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$2,395	\$599	\$656	\$3,650

Interest is calculated through August 15, 2006, and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2006, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
